

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

MIKE E. LYNN)	
Claimant)	
VS.)	
)	Docket No. 186,894
PIONEER MATERIALS, INC.)	
Respondent)	
AND)	
)	
ST. PAUL FIRE & MARINE INSURANCE COMPANY)	
Insurance Carrier)	
AND)	
)	
WORKERS COMPENSATION FUND)	

ORDER

Claimant requested review of the Award dated August 19, 1996, entered by Administrative Law Judge Bruce E. Moore. The Appeals Board heard oral argument on February 6, 1997.

APPEARANCES

Randy S. Stalcup of Wichita, Kansas, appeared for the claimant. Richard J. Liby of Wichita, Kansas, appeared for the respondent and its insurance carrier. Kendall R. Cunningham, of Wichita, Kansas, appeared for the Workers Compensation Fund.

RECORD AND STIPULATIONS

The record considered by the Appeals Board and the parties' stipulations are listed in the Award.

ISSUES

The Administrative Law Judge awarded claimant permanent partial disability benefits under K.S.A. 1991 Supp. 44-510d for an 18 percent permanent partial functional impairment to the right forearm. Claimant requested the Appeals Board to review the issue of nature and extent of disability. Claimant contends his injuries include thoracic outlet syndrome and, therefore, his benefits should be computed and awarded as an "unscheduled" injury under K.S.A. 1991 Supp. 44-510e.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board finds as follows:

The Award entered by the Administrative Law Judge should be affirmed.

The parties stipulated that claimant sustained personal injury by accident arising out of and in the course of his employment on July 21, 1991, August 23, 1991, and October 7, 1991. It is also uncontroverted that as a result of those incidents, claimant had right wrist surgery for de Quervain's syndrome in November 1991, a second wrist surgery related to the de Quervain's syndrome in January 1992, and a right carpal tunnel release in January 1993. Although additional surgery has been recommended to address recurrent carpal tunnel syndrome in the right upper extremity, to date claimant has declined that additional surgery.

In addition to the de Quervain's and carpal tunnel syndromes, claimant contends he also has thoracic outlet syndrome which he argues is the direct and natural result of his work activities and the medical treatment he received for the de Quervain's and the carpal tunnel syndromes. The Administrative Law Judge rejected claimant's contentions and limited claimant's award to that of a "scheduled" injury to the right forearm as governed by K.S.A. 1991 Supp. 44-510d.

Because of the lengthy delay between claimant's accidents in July, August, and October 1991, and the inception of the thoracic outlet symptoms in May 1994, the Appeals Board also finds that claimant has failed to prove the thoracic outlet syndrome is the direct and natural consequence of the 1991 accidents. The Appeals Board adopts the Administrative Law Judge's extensive findings and conclusions as set forth in the Award to the extent they are not inconsistent with the above. The Appeals Board notes the Administrative Law Judge's references to Dr. Koprivica are a clerical error and those references actually refer to Dr. Zimmerman.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award dated August 19, 1996, entered by Administrative Law Judge Bruce E. Moore should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of February 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Randy S. Stalcup, Wichita, KS
Richard J. Liby, Wichita, KS
Kendall R. Cunningham, Wichita, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director